

Internal Revenue bulletin

Bulletin No. 2000-51
December 18, 2000

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

INCOME TAX

T.D. 8908, page 585.

Final regulations under section 6103 of the Code relate to additions to, and deletions from, the list of items of information disclosed to the Bureau of the Census for use in certain statistical programs.

REG-107279-00, page 590.

Proposed regulations under section 152 of the Code would amend the definition of "authorized placement agency" for the purposes of determining whether a child placed for legal adoption in a taxpayer's home is a dependent of the taxpayer.

EMPLOYEE PLANS

Announcement 2000-99, page 591.

This announcement reminds sponsors of master and prototype (M&P) plans and practitioners who sponsor volume submitter specimen plans that the deadline for applying for GUST opinion and advisory letters for their plans is December 31, 2000.

GIFT TAX

Announcement 2000-100, page 591.

This document contains corrections to final regulations (T.D. 8899, 2000-38 I.R.B. 288) relating to the definition of a qualified interest under section 2702 of the Code.

ADMINISTRATIVE

Delegation Order No. 5, page 587.

This delegation of authority lists the specific order of succession and designation to act as Commissioner of Internal Revenue Service.

Delegation Order No. 264, page 587.

This delegation of authority relates to the authority to offer and accept settlement offers and to execute closing agreements made under the Targeted Jobs Tax Credit initiative.

Notice 2000-62, page 587.

Returns relating to payments of qualified tuition and related expenses, and to payments of interest on education loans. Eligible educational institutions and certain persons who receive payments of student loan interest may continue to report the same information under section 6050S of the Code for the year 2001 as required for the years 1998, 1999, and 2000. Notices 97-73, 98-7, 98-46, 98-54, 98-59, and 99-37 modified.

Notice 2000-63, page 588.

Guidance Priority List. Public comments are requested about items that should be included in the Guidance Priority List for 2001. All comments should be submitted by January 16, 2001.

Notice 2000-64, page 589.

This notice discusses and requests public comments with respect to section 7216 of the Code in the context of loans associated with electronic filing, such as balance due and refund anticipation loans.

Finding Lists begin on page ii.



Department of the Treasury
Internal Revenue Service

The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities

and by applying the tax law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents are consolidated semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and proce-

dures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The first Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the first Bulletin of the succeeding semiannual period, respectively.

The contents of this publication are not copyrighted and may be reprinted freely. A citation of the Internal Revenue Bulletin as the source would be appropriate.

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Part I. Rulings and Decisions Under the Internal Revenue Code of 1986

Section 6103.—Confidentiality and Disclosure of Returns and Return Information

26 CFR 301.6103(j)(1)-1: Disclosures of return information to officers and employees of the Department of Commerce for certain statistical purposes and related activities.

T.D. 8908

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Part 301

Disclosure of Return Information to the Bureau of the Census

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to additions to, and deletions from, the list of items of information disclosed to the Bureau of the Census for use in certain statistical programs. These regulations reflect agreement between the IRS and the Bureau of the Census as to items of business tax information needed to more effectively meet the Bureau of the Census' program objectives with respect to existing economic programs.

DATES: *Effective Date:* These regulations are effective on November 30, 2000.

Applicability Date: For the date of applicability, see §301.6103(j)(1)-1(e).

FOR FURTHER INFORMATION CONTACT: Stuart Murray, (202) 622-4570 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 25, 1999, a temporary regulation (T.D. 8811, 1999-1 C.B. 680) relating to disclosure of return information to the Bureau of the Census was published in the **Federal Register** (64 F.R. 3631). A notice of proposed rulemaking (REG-121806-97, 1999-1 C.B. 707) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (64 F.R. 3669). No public hearing was requested or held. No

written or electronic comments responding to the notice of proposed rulemaking were received. Accordingly, the proposed regulations are adopted as revised by this Treasury decision, and the corresponding temporary regulations are removed.

The regulations proposed by REG-121806-97 are adopted by this Treasury decision without revision and are discussed below.

Explanation of Provisions

Under section 6103(j)(1) of the Internal Revenue Code, upon written request from the Secretary of Commerce, the Secretary is to furnish to the Bureau of the Census (Bureau) tax return information that is prescribed by Treasury regulations for the purpose of, but only to the extent necessary in, structuring censuses and national economic accounts and conducting related statistical activities authorized by law. Section 301.6103(j)(1)-1 of the regulations provides an itemized description of the return information authorized to be disclosed for this purpose. Periodically, the disclosure regulations are amended to reflect the changing needs of the Bureau for data for its statutorily authorized statistical activities.

The amendments adopted by this Treasury decision authorize IRS personnel to disclose additional items of return information that have been requested by the Secretary of Commerce, and to delete certain items of return information that are enumerated in the regulations but that the Secretary of Commerce has indicated are no longer needed.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed

rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Jamie Bernstein of the Office of Associate Chief Counsel, Procedure & Administration (Disclosure & Privacy Law Division). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended in part by removing the entry for Section 301.6103(j)(1)-1T and adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 301.6103(j)(1)-1 also issued under 26 U.S.C. 6103(j)(1);* * *

Par. 2. Section 301.6103(j)(1)-1 is amended by:

1. Revising paragraphs (b)(3) and (b)(6)(i)(A).
2. Adding paragraphs (b)(6)(iii) and (e).

The revisions and addition read as follows:

§301.6103(j)(1)-1 Disclosures of return information to officers and employees of the Department of Commerce for certain statistical purposes and related activities.

* * * * *

(b) * * *

(3) Officers or employees of the Internal Revenue Service will disclose the following business related return information reflected on the return of a taxpayer to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, conducting and preparing, as authorized by chapter 5 of

title 13, United States Code, demographic and economic statistics programs, censuses, and surveys. The “return of a taxpayer” includes, but is not limited to, Form 941; Form 990 series; Form 1040 series and Schedules C and SE; Form 1065 and all attending schedules and Form 8825; Form 1120 series and all attending schedules and Form 8825; Form 851; Form 1096; and other business returns, schedules and forms that the Internal Revenue Service may issue—

(i) Taxpayer identity information (as defined in section 6103(b)(6)) including parent corporation, shareholder, partner, and employer identity information;

(ii) Gross income, profits, or receipts;

(iii) Returns and allowances;

(iv) Cost of labor, salaries, and wages;

(v) Total expenses or deductions;

(vi) Total assets;

(vii) Beginning- and end-of-year inventory;

(viii) Royalty income;

(ix) Interest income, including portfolio interest;

(x) Rental income, including gross rents;

(xi) Tax-exempt interest income;

(xii) Net gain from sales of business property;

(xiii) Other income;

(xiv) Total income;

(xv) Percentage of stock owned by each shareholder;

(xvi) Percentage of capital ownership of each partner;

(xvii) End-of-year code;

(xviii) Months actively operated;

(xix) Principal industrial activity code, including the business description;

(xx) Total number of documents and the total amount reported on the Form 1096 transmitting Forms 1099-MISC;

(xxi) Form 941 indicator and business address on Schedule C; and

(xxii) Consolidated return indicator.

* * * * *

(6)(i) * * *

(A) From the business master files of the Internal Revenue Service—

(1) Taxpayer identity information (as defined in section 6103(b)(6)), including parent corporation identity information;

(2) Document code;

(3) District office code;

(4) Consolidated return and final return indicators;

(5) Principal industrial activity code;

(6) Partial year indicator;

(7) Annual accounting period;

(8) Gross receipts less returns and allowances; and

(9) Total assets.

* * * * *

(iii) Information from an employment tax return disclosed pursuant to paragraphs (b)(2)(iii)(A), (B), (D), (I) and (J) of this section may be used by officers and employees of the Bureau of the Cen-

sus for the purpose described in and subject to the limitations of this paragraph (b)(6).

* * * * *

(e) *Effective date.* This section is applicable to the Bureau of the Census on November 30, 2000.

§301.6103(j)(1) - 1T [Removed]

Par. 3. Section 301.6103(j)(1)-1T is removed.

Robert E. Wenzel,
*Deputy Commissioner
of Internal Revenue.*

Approved November 21, 2000.

Jonathan Talisman,
*Acting Assistant Secretary
of the Treasury.*

(Filed by the Office of the Federal Register on November 22, 2000, 8:45 a.m., and published in the issue of the Federal Register for November 30, 2000, 65 F.R. 71256)

Part III. Administrative, Procedural, and Miscellaneous

Delegation Order No. 5 (Rev. 18)

Delegation of Authority

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Delegation of authority.

SUMMARY: The specific order of succession and designation to act as Commissioner of Internal Revenue Service. The text of the delegation order appears below.

FOR FURTHER INFORMATION CONTACT: Joann L. Buck, Chief of Staff, Room 3310, 1111 Constitution Avenue, NW., Washington, DC 20037, (202) 622-1320 (not a toll-free call).

EFFECTIVE DATE: October 2, 2000.

Order of Succession and Designation

To Act as Commissioner of Internal Revenue

Authority: To act as and to perform the functions of the Commissioner of Internal Revenue in the event of an enemy attack on the United States, the disability of the Commissioner, his/her absence from the main Treasury relocation Site, or if there is a vacancy in the office, thus insuring the continuity of the functions of the office.

Delegated to: The following officials in the specific sequence listed:

Deputy Commissioner
Assistant Deputy Commissioner (Operations)
Assistant Deputy Commissioner (Modernization)
Chief, Communications and Liaison
Commissioner, Small Business/Self-Employed Division
Commissioner, Wage and Investment Division
Commissioner, Tax Exempt/Government Entities Division
Commissioner, Large/Mid-Size Business Division
Deputy Commissioner, Small Business/Self-Employed Division
Deputy Commissioner, Wage and Investment Division
Deputy Commissioner, Tax Exempt/Government Entities Division

Deputy Commissioner, Large/Mid-Size Business Division
Chief, Agency-Wide Shared Services
Chief, Appeals
Chief, Criminal Investigation
Chief Information Officer

Redelegation: In the absence of these officials, the first available Compliance Director.

Sources of Authority: Treasury Order 150-10, Treasury Order 150-25.

This Order supersedes Delegation Order No. 5 (Rev. 17), effective October 15, 1999.

Dated October 4, 2000.

Charles O. Rossotti,
Commissioner of Internal Revenue.

(Filed by the Office of the Federal Register on November 6, 2000, 8:45 a.m., and published in the issue of the Federal Register for November 7, 2000, 65 F.R. 66802)

Delegation Order No. 264

Delegation of Authority

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Delegation of authority.

SUMMARY: Authority to Offer and Accept Settlement Offers and to Execute Closing Agreements Made under the Targeted Jobs Tax Credit Initiative.

FOR FURTHER INFORMATION CONTACT: Robert Wheeler, Health and Welfare Branch, Office of Division Counsel/Associate Chief Counsel (Tax-Exempt and Government Entities), CC:TEGE:EB:HW, Room 5203, 1111 Constitution Avenue, NW., Washington, DC 20224, (202) 622-6060 (not a toll-free call).

EFFECTIVE DATE: September 15, 2000.

Authority To Offer and Accept Settlement Offers and To Execute Closing Agreements Made Under the Targeted Jobs Tax Credit Initiative

Authority: In cases under their jurisdiction, to accept or make settlement offers and to execute closing agreements to effect such settlement offers, regardless of liability sought to be compromised, made

under Announcement 2000-58, subject to the prior written review and approval by the Retail Industry Technical Advisor (or his or her designee).

Delegated to: Examination Branch Chiefs in the District offices and Territory Managers in Large and Mid-Sized Business and Small Business/Self-Employed divisions.

Redelegation: This authority may not be redelegated.

Sources of Authority: Treasury Order Nos. 150-07, 150-09, and 150-10 and the authority contained in IRC 7121 to offer and accept written settlement offers and execute closing agreements, relating to federal tax matters that are the subject of Announcement 2000-58, Targeted Jobs Tax Credit Settlement Initiative, 2000-30 I.R.B. 135 (July 24, 2000).

Ratification: To the extent that authority previously exercised consistent with this Order may require ratification, it is hereby approved and ratified.

Dated October 5, 2000.

Stuart L. Brown,
Chief Counsel.

Dated October 16, 2000.

Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

(Filed by the Office of the Federal Register on November 6, 2000, 8:45 a.m., and published in the issue of the Federal Register for November 7, 2000, 65 F.R. 66802)

Returns Relating to Payments of Qualified Tuition and Related Expenses, and to Payments of Interest on Education Loans

Notice 2000-62

PURPOSE

This notice announces that eligible educational institutions and certain persons who receive payments of student loan interest may continue to report the same information under § 6050S of the Internal Revenue Code for the year 2001 as required for the years 1998, 1999, and 2000.

BACKGROUND

Section 6050S requires eligible educational institutions ("institutions") to file information returns with the Internal Revenue Service to assist taxpayers and the Service in determining the Hope Scholarship Credit and the Lifetime Learning Credit that taxpayers may claim under § 25A. Section 6050S also requires institutions to furnish a corresponding statement to each individual named on the information return showing the information that is reported to the Service. The specific information reporting requirements applicable to eligible educational institutions for the years 1998, 1999, and 2000 are described in Notice 97-73, 1997-2 C.B. 335 (as modified by Notice 98-46, 1998-36 I.R.B. 21; Notice 98-59, 1998-49 I.R.B. 16; and Notice 99-37, 1999-30 I.R.B. 124).

In addition, § 6050S requires certain persons who receive payments of interest on one or more qualified education loans, as defined in § 221(e)(1), ("payees") to file information returns with the Service to assist taxpayers and the Service in determining the amount of student loan interest that taxpayers may deduct under § 221. Section 6050S also requires payees to furnish a corresponding statement to each individual named on the information return showing the information that is reported to the Service. The specific information reporting requirements applicable to payees for the years 1998, 1999, and 2000 are described in Notice 98-7, 1998-1 C.B. 339 (as modified by Notice 98-54, 1998-46 I.R.B. 25; and Notice 99-37).

The legislative history to § 6050S reflects that Congress intended that no additional reporting (*i.e.*, beyond the reporting currently required in Notice 97-73) would be required of institutions until final regulations are issued under § 6050S. In addition, Congress intended that the final regulations would have an effective date that gives institutions sufficient time to implement additional required reporting. *See* H.R. Conf. Rep. No. 599, 105th Cong., 2d Sess., at 321-322 (1998).

DISCUSSION

On June 16, 2000, the Treasury Department and the Service issued proposed regulations under § 6050S. *See* 65 Federal Register 37728. The regulations pro-

pose reporting under § 6050S beyond that required in Notice 97-73 (as modified) and Notice 98-7 (as modified). The regulations are proposed to be applicable for information returns required to be filed, and statements required to be furnished, after December 31, 2001. The Treasury Department and the Service expect to finalize the proposed regulations in the year 2001.

The Service has received numerous comments on the proposed regulations under § 6050S. Several commentators indicated that the proposed applicability date does not provide sufficient lead time for institutions and payees to comply with the additional reporting requirements. In light of these comments, and consistent with the intent of Congress that final regulations provide sufficient time to implement additional reporting required under § 6050S, the Treasury Department and the Service have decided that institutions and payees should be allowed to satisfy the information reporting requirements for the year 2001 in the same manner as described in Notice 97-73 (as modified) and Notice 98-7 (as modified).

Accordingly, for the year 2001, eligible educational institutions will be required to file Forms 1098-T, "Tuition Payments Statement," that include the same information required by Notice 97-73 (as modified). Similarly, for the year 2001, payees will be required to file Forms 1098-E, "Student Loan Interest Statement," that include the same information required by Notice 98-7 (as modified). Forms 1098-T and Forms 1098-E for the year 2001 must be filed with the Service by February 28, 2002, if filed on paper or by magnetic media, or by April 1, 2002, if filed electronically. In addition, for the year 2001, institutions and payees must furnish statements containing the same information as Forms 1098-T and Forms 1098-E that will be filed with the Service to the individuals named on the information returns on or before January 31, 2002.

Although such reporting is not required, the Treasury Department and the Service encourage institutions and payees that are able to do so to report the additional information described in the proposed regulations for the year 2001, in order to assist taxpayers in calculating any credit allowable under § 25A and any deduction allowable under § 221.

Consistent with Notice 97-73 (as modified) and Notice 98-7 (as modified) and § 6050S, no penalties will be imposed under § 6721 or § 6722 prior to the issuance of final regulations for any failure to file correct information returns or to furnish correct statements required under § 6050S for the year 2001. Even after final regulations are issued, no penalties will be imposed under § 6721 or § 6722 for failure to file correct information returns or to furnish correct statements for the year 2001 if the institution or payee made a good faith effort to file information returns and furnish statements in accordance with either this notice or the proposed regulations.

EFFECT ON OTHER DOCUMENTS

Notice 97-73, Notice 98-7, Notice 98-46, Notice 98-54, Notice 98-59, and Notice 99-37 are modified.

DRAFTING INFORMATION

The principal author of this notice is Donna Welch of the Office of the Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division. For further information regarding this notice contact her at (202) 622-4910 (not a toll-free call).

Guidance Priority List for 2001; Comments Requested

Notice 2000-63

The Department of Treasury and Internal Revenue Service request public comment about items that should be included in the Guidance Priority List for 2001.

IRS and Treasury's Office of Tax Policy use the Guidance Priority List (GPL) each year to identify and prioritize the tax issues that should be addressed through regulations, rulings, and other published administrative guidance. Public input is invited as part of the process of formulating the GPL to ensure that the agency's resources focus on the guidance items that are most important to taxpayers and tax administration.

No particular format is required for comments submitted in response to this Notice. However, it will be helpful for

comments both to briefly describe the item that is recommended for inclusion on the GPL and to explain why there is a need for guidance. In addition, comments may present an analysis of how the issue should be resolved.

Please submit all comments by January 16, 2001. Written comments should be sent to:

Internal Revenue Service
Attn: CC:MSP:RU (Notice 2000-63)
Room 5228
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

or hand delivered between the hours of 8 a.m. and 5 p.m. to:

Courier's Desk
Internal Revenue Service
Attn: CC:MSP:RU (Notice 2000-63)
Room 5228
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Alternatively, comments may be submitted electronically via e-mail to the following address:

*Joel.S.Rutstein@m1.IRSCOUNSEL.
TREAS.GOV*

All comments will be available for public inspection and copying in their entirety.

For further information regarding this notice, contact Joel Rutstein of the Office of Special Counsel (Modernization and Strategic Planning) at (202) 622-8472 (not a toll-free call).

Balance Due and Refund Anticipation Loans Under Section 7216

Notice 2000-64

The Internal Revenue Service has received questions about the scope of section 7216 of the Internal Revenue Code,

Treas. Reg. § 301.7216-3 and Rev. Proc. 2000-31, 2000-31 I.R.B. 146, in the context of loans associated with electronic filing, such as balance due and refund anticipation loans.

The IRS is reviewing both Treas. Reg. § 301.7216-3 and Rev. Proc. 2000-31. Until further guidance is issued, tax return preparers who follow the rules for electronic filing set forth in Rev. Proc. 2000-31 and all publications and notices governing the IRS *e-file* Program listed in section 5.01 of the Revenue Procedure, will be treated as in compliance with I.R.C. § 7216.

The IRS requests comments on whether and how Treas. Reg. § 301.7216-3 and/or Rev. Proc. 2000-31 could more clearly address the rules governing balance due and refund anticipation loans. Comments should be addressed to the IRS at 5000 Ellin Road, New Carrollton, MD 20706, Attn: Ms. Grace E. Davis, W:E:IEF:CMMB, Room C4-368.

Part IV. Items of General Interest

Notice of Proposed Rulemaking

Rules Relating to General Definition of Dependent

REG-107279-00

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that amend the definition of “authorized placement agency” for purposes of determining whether a child placed for legal adoption in a taxpayer’s home is a dependent of the taxpayer. A taxpayer who has a child placed for legal adoption in his or her home by an authorized placement agency will be affected by these regulations.

DATES: Written or electronically generated comments and requests for a public hearing must be received by February 28, 2001.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG-107279-00), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:M&SP (REG-107279-00), Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue., NW., Washington, DC. Taxpayers may also submit comments electronically via the internet by selecting the “Tax Regs” option on the IRS Home Page, or by submitting comments directly to the IRS internet site at http://www.irs.ustreas.gov/tax_regs/regslst.html. The IRS will publish the time and date of any public hearing in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Elizabeth Kaye, (202) 622-4910; concerning submissions of comments and requests for a public hearing, Guy Traynor, (202) 622-7180 (not toll-free calls);

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains proposed amendments to §1.152-2(c)(2) of the In-

come Tax Regulations (26 CFR part 1) relating to the general definition of a dependent.

On October 12, 1999, the IRS published final regulations under section 6109 regarding IRS adoption taxpayer identification numbers (T.D. 8839, 1999-41 I.R.B. 498 [64 F.R. 51241]). Those regulations provided, in part, that in order for an adoption taxpayer identification number (ATIN) to be assigned, a child must be placed for adoption by an “authorized placement agency” as defined in §1.152-2(c)(2). Commentators expressed concern that because of this requirement, ATINs are not available in the case of independent adoptions as defined by state law. In general, independent adoptions take two forms. In one type, the biological parent(s) uses an attorney or other intermediary to place the child with the adoptive parents. In other independent adoptions, no intermediary is necessary because the adoptive parents and the biological parent(s) know one another.

The proposed regulations amend the definition of “authorized placement agency” to provide that an authorized placement agency is not limited to governmental and private organizations authorized by state law to place children for legal adoption, but also includes biological parents and other persons authorized by state law to place children for legal adoption.

These regulations are proposed to apply for taxable years beginning after December 31, 2000. Taxpayers may rely on these proposed regulations for guidance pending the issuance of the final regulations. If, and to the extent, future guidance is more restrictive than the guidance in the proposed regulations, the future guidance will be applied without retroactive effect.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5

U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. Chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written and electronic comments that are submitted timely to the IRS. The IRS and Treasury specifically request comments on the clarity of the proposed regulations and how it can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested by any person who timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Elizabeth Kaye, Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in the development of the regulations.

* * * * *

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.152-2 is amended by revising paragraph (c)(2) to read as follows:

§ 1.152-2 Rules relating to general definition of dependent.

* * * * *

(c) * * *

(2) For any taxable year beginning after December 31, 2000, a child who is a member of an individual's household will be treated as a child of that individual by blood if the child was placed with the individual by an authorized placement agency for legal adoption pursuant to a formal application filed by the individual with the agency. For purposes of this paragraph (c)(2), an authorized placement agency is any agency that is authorized by a State, the District of Columbia, a possession of the United States, a foreign country, or a political subdivision of any of the foregoing to place children for adoption. An authorized placement agency also includes biological parents and other persons authorized by state law to place children for legal adoption.

* * * * *

Robert E. Wenzel,
Deputy Commissioner
of Internal Revenue.

(Filed by the Office of the Federal Register on November 29, 2000, 8:45 a.m., and published in the issue of the Federal Register for November 30, 2000, 65 F.R. 71277)

Deadline for Submission of M&P and Volume Submitter Specimen Plans

Announcement 2000-99

The Internal Revenue Service reminds sponsors of master and prototype (M&P) plans and practitioners who sponsor volume submitter specimen plans that the deadline for applying for GUST opinion and advisory letters for their plans is December 31, 2000. This deadline also applies to M&P sponsors and volume submitter practitioners who use mass submitter or lead specimen plans. This deadline does not require employers who have adopted or intend to adopt M&P or volume submitter specimen plans to take any action at this time.

Most employers must amend their tax-qualified retirement plans for new law changes (which are described using

the acronym "GUST") by the end of the first plan year beginning in 2001 (2001 plan year). Thus, for calendar year plans, this deadline for making GUST plan amendments is December 31, 2001. However, employers who have, as of the end of the 2001 plan year, either adopted or certified their intent to adopt an M&P or volume submitter specimen plan may be allowed more time to make their GUST plan amendments. For these employers to be allowed the extra time, the sponsors of the M&P and volume submitter specimen plans must apply for GUST opinion or advisory letters by December 31, 2000.

Some sponsors and practitioners use an M&P "mass submitter plan" or a volume submitter "lead specimen plan" as their own M&P or volume submitter specimen plan. These sponsors and practitioners also must apply for GUST opinion or advisory letters by December 31, 2000, if they want to give their clients extra time to make GUST plan amendments. It does not matter that the mass submitter plan or lead specimen plan may not yet be approved.

Opinion letter applications for M&P sponsors who use mass submitter plans are filed by the mass submitter. Earlier this year, the IRS mailed each mass submitter of record a list of those M&P sponsors who previously adopted one of the mass submitter's plans. Mass submitters should use these lists to apply for opinion letters for these sponsors' plans by December 31, 2000. In other cases, the mass submitter must file Form 4461-B on behalf of the M&P sponsor by December 31, 2000.

Advisory letter applications for practitioners who use lead specimen plans must also be filed by December 31, 2000. Sponsors of lead specimen plans should refer to section 17.02 of Rev. Proc. 2000-20, 2000-6 I.R.B. 553, for the procedures governing these applications.

Employers who have not adopted an M&P or volume submitter specimen plan by the end of the 2001 plan year can nevertheless get extra time to make their GUST plan amendments. To get the extra time, these employers must sign a certification of intent to adopt an M&P or volume submitter specimen plan once the IRS has approved the plan for GUST. Both the employer and the M&P sponsor

or volume submitter practitioner must sign the certification by the end of the 2001 plan year. Employers who do not timely adopt, or certify their intent to adopt, an M&P or volume submitter specimen plan generally must adopt individually designed GUST plan amendments by the end of the 2001 plan year.

More information about the GUST deadlines and filing procedures can be found in the following IRS procedures: Rev. Proc. 2000-20 (2000-6 I.R.B. 553), Rev. Proc. 2000-27 (2000-26 I.R.B. 1272), and Rev. Proc. 2000-6 (2000-1 I.R.B. 187).

Definition of a Qualified Interest in a Grantor Retained Annuity Trust and a Grantor Retained Unitrust; Correction

Announcement 2000-100

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations that were published in the **Federal Register** on Tuesday, September 5, 2000 (65 F.R. 53587), relating to the definition of a qualified interest under section 2702 of the Internal Revenue Code.

DATES: This correction is effective September 5, 2000.

FOR FURTHER INFORMATION CONTACT: James F. Hogan (202) 622-3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject of these corrections are under section 2702 of the Internal Revenue Code.

Need for Correction

As published, final regulations (T.D. 8899, 2000-38 I.R.B. 288) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (T.D. 8899), which were

the subject of FR Doc. 00-22544, is corrected as follows:

§25.2702-3 [Corrected]

1. On page 53589, column 1, §25.2702-3(b)(3), the paragraph heading “*Payment of annuity amount.*” is corrected to read “*Period for payment of annuity amount.*”.

2. On page 53589, column 1, §25.2702-3(b)(4), first sentence, the language “An annuity amount payable based on the anniversary date of the creation of the trust must be paid by the anniversary date.” is corrected to read “An annuity

amount payable based on the anniversary date of the creation of the trust must be paid no later than 105 days after the anniversary date.”.

3. On page 53589, column 2, §25.2702-3(c)(3), the paragraph heading “*Payment of unitrust amount.*” is corrected to read “*Period for payment of unitrust amount.*”.

4. On page 53589, column 2, §25.2702-3(c)(4), first sentence, “A unitrust amount payable based on the anniversary date of the creation of the trust must be paid by the anniversary date.” is corrected to read “A unitrust amount

payable based on the anniversary date of the creation of the trust must be paid no later than 105 days after the anniversary date.”.

Cynthia E. Grigsby,
Chief, Regulations Unit,
Office of Special Counsel
(Modernization & Strategic Planning)

(Filed by the Office of the Federal Register on November 27, 2000, 8:45 a.m., and published in the issue of the Federal Register for November 28, 2000, 65 F.R. 70791)

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it ap-

plies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in law or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in the new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.

E.O.—Executive Order.
ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign Corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.

PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statements of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

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